

REMARKS

The Office Action dated June 1, 2010 has been carefully considered. Claim 2 has been amended. Claim 2 is in this application. No new matter has been added.

The previously submitted claim was objected to as informal. Applicant has amended claim 2 in accordance with the Examiner's suggestions.

The previously submitted claim was rejected under 35 U.S.C. § 103 as obvious in view of U.S. Patent No. 2,672,138 to Carlock in combination with U.S. Patent No. 6,386,197 to Miller. Applicant submits that the teachings of these references do not disclose or suggest the invention defined by the present claim.

Carlock discloses a device to promote nasal breathing and prevent snoring in which a nasal breathing tube has a bulge-lock design that fits snugly, comfortably, but firmly, in the nostrils and the bulge rests in the interior pocket or nest of the lobes of the nose. The Examiner indicated that Carlock teaches a widening surrounding the cylinders, and this is based on Fig. 2, and on its phantom line. However, Applicant submits that the widening shown in Carlock does not continue around the rear zone of the cylinders as shown in Fig. 1 and Fig. 5. The bulge-lock of Carlock is only present on the front zone of the cylinders and was designed to "fit snugly, comfortably but firmly in the nostrils". On the contrary, the widening of the present invention surrounds the central portion of the cylinders, except in a portion of the cylinder which comes into contact with a nasal septum during use, thus occupying both the front and rear zone of the cylinders. The structure of the widening of the nasal stimulator of the present invention is used to stimulate the internal wall of the nose, on all its parts, except in the nasal septum. There is no teaching or suggestion in Carlock of stimulation of the internal wall of the nose. Rather, Carlock teaches that the bulge lock is designed to fit snugly in the nose. Further, the structure of Carlock does not include a bulge at the rear zone of the cylinder and cannot provide stimulation of all parts of the internal wall of the nose except the nasal septum. Accordingly, Carlock provides different structure with different functions than the invention defined by the present claims.

With regard to the peripheral rim on the lower part of the cylinders, Applicant has amended the claim to recite that the peripheral rim extends radially beyond an outer diameter of the lower part of the cylinder. The Examiner compares rim of the present invention with Carlock

parts 14/16 and indicates that it is a point which stimulator should not pass. Applicant submits that parts 14/16 have an entirely different structure than the peripheral rim extending radially beyond the outer diameter of the lower part of the cylinder, as defined by the present claims. In Carlock, parts 14/16 are fixed on a filter trap that can be removed from the cylinders. The function of parts 14/16 of Carlock is for improving the attachment of the filter in the cylinders and a point at which the filter should not pass. However, Carlock does not teach or suggest that parts 14/16 are adapted to serve as a limit where the insertion of the stimulator into the nose should not pass. Rather, because parts 14/16 are not fixed to the cylinders, and the cylinders can be inserted in to the nose without the filter. There is nothing in Carlock to limit where the insertion of the cylinders into the nose. Accordingly, Carlock again provides different structure with different functions than the invention defined by the present claims.

With regard to the protruding support, the Examiner compares the protruding support with Carlock parts 4/10. Carlock discloses that part 4 are lyre type wings that curve over and gently but firmly and lock around the exterior lobes of the nose adding to the idea that the breathing tubes must not slip out of the nostril, as described at col. 3, lines 42. In contrast to the invention defined by the present claims, Carlock does not teach or suggest that part 4 is adapted to add pressure on the external alar of the nose for stimulating the alar muscle. To the contrary, Carlock teaches a structure that fixes the cylinders to the nose, but does not teach or suggest that the structure of the protruding support can be used to stimulate the levator muscle of the nose.

The Examiner indicated that Carlock fails to teach that each of the cylinders is internally perforated and that it would be obvious in view of Miller to have provided perforations in some portion of the interior of the Carlock cylinders in order to deliver medicament to a users lungs.

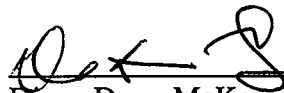
Miller discloses a nasal air passageway opening device including a body including protrusions to increase frictional resistance with the nasal passage. The body can be hollow and include a plurality of apertures for release of a medicament. In contrast to the invention defined by the present claims, Miller does not teach or suggest a pair of cylinders each including a widening that surrounds the central portion of the cylinders except in a portion of the cylinder which comes into contact with a nasal septum during use. In addition, Miller does not teach or suggest a peripheral rim on a lower part of the cylinder extends radially beyond an outer

diameter of the lower part of the cylinder. Further, Miller does not teach or suggest a protruding support extending from the rim and adapted to add pressure on the external alar of the nose. Accordingly, Miller does not cure the deficiencies of Carlock noted above and the invention defined by the present claims is not obvious in view of Carlock in combination with Miller.

In view of the foregoing, Applicant submits that all pending claim is in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should he believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

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Diane Dunn McKay, Esq.
Reg. No. 34,586
Attorney for Applicant

PORZIO, BROMBERG & NEWMAN, P.C.
29 Thanet Road, Suite 201
Princeton, NJ 08540
Tel: 609 924 8555
Fax: 609 924 3036